IN THE UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:	**Tobias Helbig**
For:	**CHANNEL COORDINATION IN WIRELESS NETWORK SYSTEMS**
Serial No.	**10/567,225**
Filed	**February 3, 2006**
Art Unit	**2167**
Examiner	**Daniel Lai**
Attorney Docket No.	**DE030265US1**
Confirmation No.	**4180**

APPEAL BRIEF

ON APPEAL FROM GROUP ART UNIT 2167

Mail Stop Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted both in support of the Notice of Appeal, which was filed May 27, 2009, and in response to the Final Office Action dated February 27, 2009. The two-month period for filing this Appeal Brief expires on July 27, 2009.

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I. REAL PARTY IN INTEREST

The real party in interest is Koninklijke Philips Electronics N.V., the assignee of record, whose two-page assignment was recorded on February 3, 2006 in the USPTO beginning at Reel 017545, Frame 0770.

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any pending appeals, judicial proceedings, or interferences which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

a) Claims 1, 3-7, and 9-11 are pending, stand rejected, and are the subject of this appeal.

b) Claims 1, 7, and 11 are all independent claims.

c) Claims 2, 8, and 12 have been cancelled without prejudice by a prior response of record in this application.

IV. STATUS OF AMENDMENTS

The claims listed in Section VIII, Claims Appendix, of this Appeal Brief correspond to the claims as submitted in Appellant's response filed December 24, 2008. All amendments filed in this application have been entered and there are no amendments pending.

V. SUMMARY OF CLAIMED SUBJECT MATTER

It should be explicitly noted that it is not the Appellant's intention that the currently claimed or described embodiments be limited solely to operation within the illustrative embodiments identified below. Furthermore, descriptions of illustrative embodiments are provided below in association with portions of the claims, which are related to the identified illustrative embodiments, entirely for compliance with, and satisfaction of, the requirements for filing this appeal. There is no intention to read any further interpreted limitations into the claims as presented.

The claimed invention, as recited in claim 1, is directed to a wireless network system (*Figure 1 and page 3, line 1*), comprising: a first access point for providing a first communication channel to a first terminal (*page 3, lines 1-2*); and a second access point for providing a second communication channel to a second terminal (*page 3, lines 2-3*); wherein the first access point is adapted to build up a third communication channel to the second access point to coordinate a setting of the first and second communication channels (*page 3, lines 4-6*);wherein the first access point is adapted to perform a detection for the second access point (*page 3, line 15*); wherein the first access point is adapted to establish the third communication channel to the second access point when the second access point is detected via at least one of a core network and a wireless channel (*page 3, lines 4-6*); wherein the first access point is adapted to determine whether there is a first free channel and a second free channel (*page 3, lines 22-23*); and wherein, in case there are first and second free channels, the first access point is adapted to control a setting of the first and second communication channels on the basis of the first and second free channels (*page 3, lines 23-25*). It should also be noted that support can also be found in Figures 2a and 2b as well as other portions of the specification.

The claimed invention, as recited in claim 7, is directed to an access point device for a wireless network system (*Figure 1 and page 4, line 9*), wherein the access point device is adapted to: provide a first communication channel to a terminal (*page 3, lines 1-2*); and build up a second communication channel to another access point to coordinate a setting of the first communication channel (*page 4, lines 9-15*); wherein the access point device is further adapted to: perform a detection for the other access point (*page 3, line 15*); and establish a second communication channel to the other access point when the other access point is detected via at least one of a core network and a wireless channel (*page 3, lines 4-6*); wherein the first access point is further adapted to determine whether there is a first free channel (*page 3, lines 22-23*); and wherein, in case there is a first free channel, the first access point is further adapted to control a setting of the first communication channel on the basis of the first free channel (*page 3, lines 23-25*). It should also be noted that support can also be found in Figures 2a and 2b as well as other portions of the specification.

The claimed invention, as recited in claim 11, is directed to a method of operating an access point of a wireless network (*Figures 2a and 2b and page 4, lines 22-23*), the method comprising the

steps of: providing a first communication channel to a terminal (*page 3, lines 1-2*); building up a second communication channel to another access point to coordinate a setting of the communication channel (*page 3, lines 4-6 and page 4, lines 24-25*); performing a detection for the other access point (*page 3, line 15*); establishing a second communication channel to the other access point when the other access point is detected via at least one of a core network and a wireless channel (*page 3, lines 4-6*); determining whether there is a first free channel (*page 3, lines 22-23*); controlling a setting of the first communication channel on the basis of the first free channel in case there is a first free channel (*page 3, lines 23-25*); determining a first interference and channel usage map in case there is no first free channel (*page 3, lines 27-28*); requesting a second interference and channel usage map from the other access point in case there is no first free channel (*page 3, lines 27-28*); determining an optimized channel lay-out on the basis of the first and second interference and channel usage maps (*page 3, lines 28-30*); and controlling the setting of the first communication channel on the basis of the optimized lay-out (*page 3, lines 28-30*).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

In the grounds of rejection to be reviewed on appeal, one reference has been cited and applied against the claims. This reference is listed as follows: U.S. Patent 5,933,420 to Jaszewski et al. (hereinafter "*Jaszewski*").

The ground of rejection to be reviewed on appeal is stated below as follows:

1. Whether claims 1, 3-7, and 9-11 are properly rejected under 35 U.S.C. §102 as being anticipated by Jaszewski.

VII. ARGUMENT

Appellant respectfully traverses the rejections in accordance with the detailed arguments set forth below.

1. CLAIMS 1, 3-7, AND 9-11 ARE IMPROPERLY REJECTED UNDER 35 U.S.C. §102 AS BEING ANTICIPATED BY JASZEWSKI

Claim 1 is an independent apparatus claim to the system. Claims 3-6 depend ultimately from claim 1. Claim 7 is an independent apparatus claim to an access point device. Claims 9-10 depend ultimately from claim 7. Claim 11 is an independent method claim.

Claim 1

Claim 1 calls, in part, for:

> *wherein the first access point is adapted to determine whether there is a first free channel and a second free channel; and*
> *wherein, in case there are first and second free channels, the first access point is adapted to control a setting of the first and second communication channels on the basis of the first and second free channels.*

Jaszewski does not teach, show, or suggest either of the limitations shown in the partial reproduction of claim 1 above. The remarks below will show that the access points in Jaszewski lack any ability to determine whether channels are free and any ability to control setting of the communication channel for itself or for any other access point. Based on the remarks herein, it is believed that a prima facie case of anticipation based on Jaszewski has not been established.

Jaszewski appears to disclose a wireless network with a wired backbone network. *See Jaszewski in Figure 1 and col. 3, lines 17-26.* The wireless network appears to allow wireless communications among access points and between an access point and its network nodes or subscriber terminals. *Ibid.* The wired network appears to be used to connect the access points to a network manager. *Ibid.*

In operation, the access points in Jaszewski, under control of and responsive to the network manager, appear to collect information about neighboring access points by using "Where are you?" and "I am here" messages to each other. *See Jaszewski at col. 5, lines 42-44 and at col. 4, line 41 through col. 5, line 8, as well as in Figures 1, 2, and 3.* This information appears to be organized by

each access point in a local neighbor table. *See Jaszewski at Figure 3 and the specification related thereto at col. 8, line 55 to col. 9, line 58.* The information is then collected by the network manager for processing. *See Jaszewski at col. 5, lines 13-16.*

According to Jaszewski, the network manager uses the information to generate new channel assignments to reduce channel conflict and the attendant interference. *See Jaszewski at col. 5, lines 16-19.* The new channel assignments are broadcast back to each access point so that the access point can adapt, if necessary, to the new assignment. *See Jaszewski at col. 5, lines 36-37 and col. 8, lines 13-18.* The channel assignment operations performed by the network manager in Jaszewski are shown in Figure 2 as step 220 through step 260. *See Jaszewski at Figure 2 and at col. 5, lines 44-45 and col. 6, lines 46-48.* Jaszewski is clear that the network manager alone is responsible for determining channel assignments and for distributing the new channel assignments to the access points. *See Jaszewski at col. 4, lines 36-38; col. 5, lines 16-19; col. 5, lines 44-45; col. 6, lines 48-50; col. 7, lines 9-10; and col. 8, lines 13-18.*

Jaszewski does not teach, show, or suggest that "the first access point is adapted to determine whether there is a first free channel and a second free channel," as defined in claim 1. It is apparent from the remarks above and from a careful review of Jaszewski that the access points organize the local neighbor table based on messages sent and received by each respective access point. But there is no teaching in Jaszewski that an access point includes any capability or tendency to determine whether a channel is free. Only the network manager that is connected to the group of access points appears to have sufficient operational intelligence to analyze the information in all the local neighbor tables from the connected access points. Even the network manager, when analyzing the received local neighbor tables, does not appear to determine whether any channels are free. The network manager appears instead to concentrate its efforts on reducing channel conflict without any mention or suggestion of determining whether a channel is free. *See Jaszewski at col. 7, lines 8-54.* Thus, Jaszewski does not teach all the elements of claim 1.

Jaszewski does not teach, show, or suggest that "in case there are first and second free channels, the first access point is adapted to control a setting of the first and second communication channels on the basis of the first and second free channels," as defined in claim 1. Again, it is apparent from the remarks above and from a careful review of Jaszewski that each access points responds to the receipt of a new channel assignment from the network manager. But there is no

teaching or suggestion in Jaszewski that an access point includes any capability or tendency to control its own channel setting or the channel setting of a neighbor access point when a channel is free. It is only the network manager connected to the group of access points which appears to have sufficient capability to control the setting of a communication channel in an access point connected thereto. The network manager generates the new channel assignments, and then broadcasts the channel assignments to the connected access points. As such, only the network manager performs any control over channel connections for an access point. *See Jaszewski at col. 8, lines 13-20.* Thus, Jaszewski does not teach all the elements of claim 1.

The present Office Action cites two sections of Jaszewski is support of the rejection of the two limitations quoted above. *See Final Office Action at page 4.* Neither section of Jaszewski is applied to a particular one of the two claimed limitations. The explanations of these two citations to Jaszewski in the present Office Action states that "Jaszewski discusses access point determining channel signal strength and generate new set of channel assignments." *Ibid.* The reliance on these sections of Jaszewski is misplaced and the explanation of the sections is not accurate.

Jaszewski, at col. 4, lines 1-7, states that:

> *One embodiment of the invention detects the interference between the two access points, notes the existence of the jamming from the interference source 120, and generates a new set of channel assignments for the access points that reduces the communications conflict due to the interference between the two access points and the jamming.*

But any interpretation of this section must be made in the context set forth in the entire Jaszewski specification. In Jaszewski as a whole, it is abundantly clear that the detection of interference via conflicts and the generation of new channel assignments is completely and exclusively reserved for the network manager, not the access point. As we have explained in detail above, Jaszewski reserves steps 220 through 260 for the network manager alone to perform. *See Jaszewski at col. 5, lines 44-45.* Step 220 is entitled "Generate Conflict Level Table;" step 230 is entitled "Generate an Alternate Set of Channel Assignments"; step 240 is entitled "Display the Conflict Level Information;" step 250 is entitled "Allow the User to Modify the Alternate Set of Channel Assignments;" and step 260 is entitled "Send New Channel Assignments." *See Figure 2 of Jaszewski.* All these steps are performed by the network manager and none are performed at all by an access point.

Jaszewski, at col. 6, line 46 through col. 7, line 35, discusses the details of steps 220 and 230 after the steps 210-216 have been completed at the access points. It has been explained carefully and clearly above that steps 220 and 230 are performed by the network manager, not by the access point. To wit, Jaszewski states that "[t]he network manager 110 then performs step 20 through step 260." *See Jaszewski at col. 5, lines 44-45.* With such a clear teaching and statement by Jaszewski, one can only conclude that the second section of Jaszewski beginning at col. 6, line 46 cited in the present Office Action defines the operation of the network manager, as opposed to the access point. As a result, it is believed that Jaszewski does not teach, show, or suggest all the elements of claim 1.

It should be noted that the network manager is not capable of acting as, or being substituted for, an access point. As defined in claim 1, the first access point provides a first communication channel to the first terminal, which corresponds for the sake of argument to Jaszewski's network node. The second access point provides a second communication channel to the second terminal, which corresponds for the sake of argument to another of Jaszewski's network nodes. In no case is an access point defined in the claims that is not somehow providing a communication channel to a particular terminal. Jaszewski's network manager is in communication solely with the access points. There is no communication provided from the network manager to the network nodes in Jaszewski. Thus, the network node in Jaszewski is not even remotely suggestive of the access point defined in claim 1.

For all the reasons set forth above, it is believed that the elements of claim 1 are not taught, shown, or suggested by Jaszewski, either separately or in combination with known prior art. It is therefore submitted that the elements of claim 1 are not anticipated by Jaszewski and the elements of claim 1 would not have been obvious to a person of ordinary skill in the art upon a reading of Jaszewski, separately or in combination. Thus, it is submitted that claim 1 is allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claim 1.

Dependent Claims 3-6

Claims 3-6 depend either directly or indirectly upon claim 1. Each dependent claim includes all the features of claim 1 including the particular features discussed immediately above. Appellant essentially repeats the above argument from claim 1 for each of dependent claims 3-6. Thus, it is submitted that dependent claims 3-6 are allowable at least by virtue of their dependency from claim 1 and because each claim recites further distinguishing features thereover. It is respectfully requested the Board reverse the rejection of dependent claims 3-6.

In addition to the reasons given above, it should be noted that Jaszewski fails to teach show or suggest the limitations of:

> *the first access point is adapted to request a second interference and channel usage map from the second access point;*
>
> *wherein the first access point is adapted to determine an optimized channel lay-out on the basis of the first and second interference and channel usage maps; and*
>
> *wherein the first access point is adapted to control the setting of the first and second communication channels on the basis of the optimized lay-out*

from claim 4 and the limitations of claim 5, dependent from claim 4, that call for:

> *a plurality of third access points is assigned to the first access point for coordinating communication channels to associated terminals; and wherein a plurality of fourth access points is assigned to the second access point for coordinating communication channels to associated terminals.*

It has been documented above, with respect to claim 1, that the access points of Jaszewski have no capability or tendency to perform any operation involving determination of optimized channel layouts or channel assignments since Jaszewski has clearly given that operation exclusively to the network manager, which is not even remotely suggestive of an access point.

Moreover, there is no suggestion or teaching in Jaszewski wherein one access point requests an interference and channel usage map from another access point. Such requests are made only by the network manager to the access points. *See Jaszewski at col. 5, lines 42-44.* That is, the network manager requests that each access point proceed through the "Where are you?" and "I am here" messaging protocol followed by the creation of its own local neighbor table. The local neighbor table from each access point is then sent to the network manager. There is no suggestion in Jaszewski that the local neighbor table is ever sent to another access point.

Additionally, there is no suggestion or teaching in Jaszewski that an access point controls the channel setting of communication channels not associated with that particular access point. It has been discussed above with respect to claim 1 that the network manager in Jaszewski via distribution the new channel assignments controls the setting of each access point.

Finally, there is no teaching or suggestion in Jaszewski that there is any type of assignment of access points to one particular access point. In Jaszewski, the access points are all peers in the embodiments shown in Figure 1 of Jaszewski and discussed in the specification. The present Office Action cites Jaszewski at col. 3, lines 17-20 to support the rejection of this limitation in claim 5. The reliance on this section of Jaszewski is misplaced. The cited section of Jaszewski is reproduced below for easy reference as follows:

> *The wired network 100 includes: a wired media; a number of wireless access points (an access point 1 111, an access point 2 112, an access point 3 113 and an access point 4 114); and, a network manager 110.*

Nowhere in this section, or anywhere else in Jaszewski, is there a mention about assigning one or more access points to another access point. Moreover, there is no teaching in Jaszewski that an access point coordinates communication channels for other access points. Jaszewski is clear that the coordination of communication channels for access points is the sole and exclusive domain of the network manager, which is not itself similar to or suggestive of an access point.

For all the additional reasons set forth above, it is believed that the elements of claims 4 and 5 are not taught, shown, or suggested by Jaszewski, either separately or in combination with known prior art. It is therefore submitted that the elements of claims 4 and 5 are not anticipated by Jaszewski and the elements of claims 4 and 5 would not have been obvious to a person of ordinary skill in the art upon a reading of Jaszewski, separately or in combination. Thus, it is submitted that claims 4 and 5 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claims 4 and 5.

Claim 7

Claim 7 is an independent claim written in an apparatus form including limitations substantially similar to the limitations discussed above in claim 1. Claim 7 calls, in part, for:

> *wherein the first access point is further adapted to determine whether there is a first free channel; and*

> *wherein, in case there is a first free channel, the first access point is further adapted to control a setting of the first communication channel on the basis of the first free channel.*

Since the access point limitations in claim 7 are substantially identical to the apparatus (system) limitations applied to access points in claim 1, Appellant essentially repeats the above argument from claim 1 for claim 7. Thus, it is submitted that claim 7 is allowable at least by virtue of its substantial similarity of the limitations reproduced directly above to those discussed above with respect to claim 1. It is respectfully requested the Board reverse the rejection of claim 7.

Dependent Claims 9-10

Claims 9-10 depend either directly or indirectly upon claim 7. Each dependent claim includes all the features of claim 7 including the particular features discussed immediately above. Appellant essentially repeats the above argument from claim 7 for each of dependent claims 9-10. Thus, it is submitted that dependent claims 9-10 are allowable at least by virtue of their dependency from claim 7 and because each claim recites further distinguishing features thereover. It is respectfully requested the Board reverse the rejection of dependent claims 9-10.

In addition to the reasons given above, it should be noted that Jaszewski fails to teach show or suggest the limitations of:

> *the first access point is adapted to request a second interference and channel usage map from the other access point;*
>
> *wherein the first access point is further adapted to determine an optimized channel lay-out on the basis of the first and second interference and channel usage maps; and*
>
> *wherein the first access point is adapted to control the setting of the first communication channel on the basis of the optimized lay-out*

from claim 10. These limitations are substantially similar to those reproduced and discussed above for claim 4.

It has been documented above, with respect to claim 1, that the access points of Jaszewski have no capability or tendency to perform any operation involving determination of optimized channel layouts or channel assignments since Jaszewski has clearly given that operation exclusively to the network manager, which is not even remotely suggestive of an access point.

Moreover, there is no suggestion or teaching in Jaszewski wherein one access point requests an interference and channel usage map from another access point. Such requests are made only by the network manager to the access points. *See Jaszewski at col. 5, lines 42-44.* That is, the network manager requests that each access point proceed through the "Where are you?" and "I am here" messaging protocol followed by the creation of its own local neighbor table. The local neighbor table from each access point is then sent to the network manager. There is no suggestion in Jaszewski that the local neighbor table is ever sent to another access point.

Additionally, there is no suggestion or teaching in Jaszewski that an access point controls the channel setting of communication channels not associated with that particular access point. It has been discussed above with respect to claim 1 that the network manager in Jaszewski via distribution the new channel assignments controls the setting of each access point.

For all the additional reasons set forth above, it is believed that the elements of claim 10 are not taught, shown, or suggested by Jaszewski, either separately or in combination with known prior art. It is therefore submitted that the elements of claim 10 are not anticipated by Jaszewski and the elements of claim 10 would not have been obvious to a person of ordinary skill in the art upon a reading of Jaszewski, separately or in combination. Thus, it is submitted that claim 10 is allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claim 10.

Claim 11

Claim 11 is an independent method claim directed to operating an access point. This claim includes limitations substantially similar to those found in independent claims 1 and 7 and dependent claims 4, 5, and 10. All these claims have already been discussed above. Independent claim 11 calls, in part, for:

> *Method of operating an access point of a wireless network, the method comprising the steps of:*
>
> *...*
>
> *determining whether there is a first free channel;*
>
> *controlling a setting of the first communication channel on the basis of the first free channel in case there is a first free channel;*
>
> *determining a first interference and channel usage map in case there is no first free channel;*
>
> *requesting a second interference and channel usage map from the other access point in case there is no first free channel;*
>
> *determining an optimized channel lay-out on the basis of the first and second interference and channel usage maps; and*
>
> *controlling the setting of the first communication channel on the basis of the optimized lay-out.*

As stated above, these limitations are substantially identical to the limitations discussed and reproduced above with respect to claims 1, 4, 5, 7, and 10. Since the limitations in claim 11 are substantially identical to the method limitations in claims 1, 4, 5, 7, and 10, Appellant essentially repeats the arguments above from claims 1, 4, 5, 7, and 10 for claim 11. Jaszewski fails to teach, show, or suggest that any access point performs any of the steps reproduced directly above.

For all the reasons set forth above with respect to the similar limitations in claims 1, 4, 5, 7, and 10, it is believed that the elements of claim 11 are not taught, shown, or suggested by Jaszewski, either separately or in combination with the known prior art. It is therefore submitted that the elements of claim 11 would not have been obvious to a person of ordinary skill in the art upon a reading of Jaszewski, separately or in combination. Thus, it is submitted that claim 11 is allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claim 11.

Conclusion

In light of these remarks, it is submitted that claims 1, 3-7, and 9-11 are not anticipated by Jaszewski and would not have been obvious to a person of ordinary skill in the art upon a reading of Jaszewski, either separately or in any combination with any known prior art, at the time Appellant's invention was made. Therefore, it is submitted that claims 1, 3-7, and 9-11 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board of Patent Appeals and Interferences reverse the rejection of claims 1, 3-7, and 9-11.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

1. **(Previously Presented)** Wireless network system, comprising:

a first access point for providing a first communication channel to a first terminal; ~~and~~

a second access point for providing a second communication channel to a second terminal;

wherein the first access point is adapted to build up a third communication channel to the second access point to coordinate a setting of the first and second communication channels;

wherein the first access point is adapted to perform a detection for the second access point;

wherein the first access point is adapted to establish the third communication channel to the second access point when the second access point is detected via at least one of a core network and a wireless channel;

wherein the first access point is adapted to determine whether there is a first free channel and a second free channel; and

wherein, in case there are first and second free channels, the first access point is adapted to control a setting of the first and second communication channels on the basis of the first and second free channels.

2. **(Cancelled)**

3. **(Previously Presented)** The wireless network system according to claim 1, wherein the first and second communication channels are wireless channels.

4. **(Previously Presented)** The wireless network according to claim 3, wherein, in case there are no first and second free channels, the first access point is adapted to determine a first interference and channel usage map;

wherein, in case there are no first and second free channels, the first access point is adapted to request a second interference and channel usage map from the second access point;

wherein the first access point is adapted to determine an optimized channel lay-out on the basis of the first and second interference and channel usage maps; and

wherein the first access point is adapted to control the setting of the first and second communication channels on the basis of the optimized lay-out.

5. **(Original)** The wireless network according to claim 4, wherein a plurality of third access points is assigned to the first access point for coordinating communication channels to associated terminals; and wherein a plurality of fourth access points is assigned to the second access point for coordinating communication channels to associated terminals.

6. **(Original)** The wireless network of claim 1, wherein the first and second communication channels correspond to first and second frequencies in the ISM band.

7. **(Previously Presented)** Access point device for a wireless network system, wherein the access point device is adapted to: provide a first communication channel to a terminal; and build up a second communication channel to another access point to coordinate a setting of the first communication channel;

wherein the access point device is further adapted to: perform a detection for the other access point; and establish a second communication channel to the other access point when the other access point is detected via at least one of a core network and a wireless channel;

wherein the first access point is further adapted to determine whether there is a first free channel; and

wherein, in case there is a first free channel, the first access point is further adapted to control a setting of the first communication channel on the basis of the first free channel.

8. **(Cancelled)**

9. **(Previously Presented)** The access point device according to claim 7, wherein the first communication channel is a wireless channel.

10. **(Previously Presented)** The access point device according to claim 9, wherein, in case there is no first free channel, the first access point is further adapted to determine a first interference and channel usage map;

wherein, in case there is no first free channel, the first access point is further adapted to request a second interference and channel usage map from the other access point;

wherein the first access point is further adapted to determine an optimized channel lay-out on the basis of the first and second interference and channel usage maps; and

wherein the first access point is adapted to control the setting of the first communication channel on the basis of the optimized lay-out.

11. **(Previously Presented)** Method of operating an access point of a wireless network, the method comprising the steps of:

providing a first communication channel to a terminal;

building up a second communication channel to another access point to coordinate a setting of the communication channel;

performing a detection for the other access point;

establishing a second communication channel to the other access point when the other access point is detected via at least one of a core network and a wireless channel;

determining whether there is a first free channel;

controlling a setting of the first communication channel on the basis of the first free channel in case there is a first free channel;

determining a first interference and channel usage map in case there is no first free channel;

requesting a second interference and channel usage map from the other access point in case there is no first free channel;

determining an optimized channel lay-out on the basis of the first and second interference and channel usage maps; and

controlling the setting of the first communication channel on the basis of the optimized lay-out.

12. **(Cancelled)**

IX. EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title. No other evidence has been entered by the Examiner and/or relied upon by Appellant in this appeal, at this time.

X. RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any appeals or interferences related to the present application.